

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 4/23/2013	(3) CONTACT/PHONE Phil Acosta, Right of Way Agent (805) 781-5290	
(4) SUBJECT Hearing to consider a resolution of necessity for the acquisition of real property interest required from Sandee L. McLaughlin and Joann A. Chavez for the La Panza Road Widening Project. District 5.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: 1. Open and conduct a hearing on the adoption of the resolution of necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and 2. Adopt, by a 4/5 <sup>th</sup> 's vote, the resolution of necessity on the Sandee L. McLaughlin and Joann A. Chavez property.			
(6) FUNDING SOURCE(S) HSIP, Prop 1B, Road Fund	(7) CURRENT YEAR FINANCIAL IMPACT \$36,000.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>30 mins</u> ) <input type="checkbox"/> Board Business (Time Est. <u>    </u> )			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A    Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 5 -			

Reference: 13APR23-H-2

# County of San Luis Obispo



TO: Board of Supervisors  
FROM: Public Works  
Phil Acosta, Right of Way Agent  
VIA: Dave Flynn, Deputy Director of Public Works  
DATE: 4/23/2013

SUBJECT: Hearing to consider a resolution of necessity for the acquisition of real property interest required from Sandee L. McLaughlin and Joann A. Chavez for the La Panza Road Widening Project. District 5.

## **RECOMMENDATION**

It is our recommendation that your Honorable Board:

1. Open and conduct a hearing on the adoption of the resolution of necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and
2. Adopt, by a 4/5<sup>th</sup>'s vote, the resolution of necessity on the Sandee L. McLaughlin and Joann A. Chavez property.

## **DISCUSSION**

La Panza Road is a rural collector located east of Creston between State Routes 41 and 58 and is illustrated on the attached vicinity map. In response to known safety concerns, the Public Works Department has developed a project to improve a portion of La Panza Road. The funded project will improve the road from Ryan Road to Hord Valley Road by constructing four foot (4') paved shoulders and relocating the adjacent drainage ditch. The project's objective is to improve road safety by having a recoverable shoulder and eliminating or reducing roadside obstacles. The current project has been developed from a study of multiple design alternatives and various environmental, budgetary, and regulatory parameters to achieve the best solution for the project location.

On February 23, 2011, the California Department of Transportation approved the County's application for Highway Traffic Safety Improvement Program (HSIP) Funds for the La Panza Road Widening Project. The County's application, dated December 8, 2010, further describes the purpose and need for the Project. Said application is on file at the County's Public Works Department, and is incorporated herein by reference.

On June 5, 2012, your Board adopted the findings required by the California Environmental Quality Act and approved a Mitigated Negative Declaration for the La Panza Road Widening Project (ED10-141; 300397) (WBS 300397). This report, including the Notice of Determination & Initial Study, summarizes the purpose and need for the Project, and is incorporated herein by reference.

In total, acquiring additional road right of way from twelve (12) properties is needed for the project. Right of way documents have been executed by six (6) of twelve (12) owners to date. Approving the resolution of necessity for the subject property is necessary at this time to comply with Federal Highway Administration funding requirements since the project is an approved HSIP Project. If the County does not advance the project to the construction phase within the next six (6) months, Caltrans (FHWA lead agency) would be authorized to bar the County from applying for any new safety grants.

### Project Right of Way Needs

#### McLaughlin/Chavez Property (APN: 043-251-010):

The County requires a Public Road and Slope Easement over a 0.49 acre (21,123 sf) portion of the McLaughlin/Chavez property to provide adequate space for the planned shoulder widening and drainage reconstruction. The required easement has a length of approximately 1,708 feet, a width of 11 feet, and is located along the property's La Panza Road frontage. The impacted property fencing is to be relocated at the expense of the project and the driveway approach and related culvert encroachments are also to be reconstructed at project expense. A secondary driveway will also be constructed to mitigate the loss of an internal access road.

### Procedural Steps

The County's offer to purchase the necessary easement was made to McLaughlin and Chavez on February 8, 2013. In accordance with Federal, State, and Local acquisition requirements, this offer was based upon a staff appraisal which was duly approved on January 9, 2013. Negotiation efforts with this property owner have not resulted in an agreement, and adoption of the attached resolution of necessity is needed at this time.

Federal, State and Local guidelines provide the County with the right to implement Eminent Domain proceedings upon the adoption of the resolutions of necessity as recommended. The Code of Civil Procedure requires a 4/5<sup>th</sup>s vote for the adoption of these resolutions.

The recommended action is necessary to initiate legal steps that will assure that the County obtains legal possession of the property in accordance with the project schedule. Upon approval of the resolution, which requires a 4/5<sup>th</sup>s vote, ongoing discussions and negotiations between the County and the property owners will continue with the intent of reaching mutually agreeable terms of compensation as provided by applicable laws and regulations.

In order for your Board to adopt the requested resolutions, it must make the following findings as set forth in each of the attached resolutions:

- A. The public interest and necessity require the project;
- B. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

C. The subject property is necessary for the proposed project; and

D. The offer required by Section 7267.2 of the Government Code has been made to the subject owner(s) of record.

At today's hearing, evidence and discussion by the property owners or their representative should ultimately pertain to these four points.

Any issues relating to the value/compensation of the subject properties are not proper subjects for this hearing. The property owners are entitled to fair market value of any property taken pursuant to the procedures set forth in the California Code of Civil Procedure.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

County Counsel has reviewed and approved the subject resolutions as to legal form and effect. County Planning has been involved in project permitting. Caltrans administers the Federal Highway Safety Improvement Program in California.

### **FINANCIAL CONSIDERATIONS**

The value of the interest required is currently appraised as follows:

McLaughlin/Chavez	\$36,000
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This project is a multi-year project budgeted in Road Fund for FY 2012-13 WBS 300397 in the amount of \$2,031,852. The project will receive funds from Federal Highway Safety Improvement Program (HSIP), Proposition 1B, and Road funds.

If the County is unable to deliver the La Panza Road project on schedule, Caltrans would be authorized to bar the County from applying for future HSIP grants.

### **RESULTS**

Adopting the requested resolution will allow continued progress toward construction of the La Panza Road Widening Project by supporting the acquisition of the described real property interests required for the Project. Construction of the project will provide for a safe community.

File: 300397 La Panza Widening

Reference: 13APR23-H-2

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### **ATTACHMENTS**

1. Vicinity Map
2. Exhibit 1 - Owner and Parcel List
3. Resolution of Necessity for the Real Property Interests required from Sandee L. McLaughlin and Joann A. Chavez for the San Luis Obispo County La Panza Road Widening Project